



# CITY OF LODI

## COUNCIL COMMUNICATION

AGENDA TITLE: Request for Proposals for Towing Franchise

MEETING DATE: August 3, 1994

PREPARED BY: City Attorney

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RECOMMENDED ACTION: Council consideration and possible approval of Request for Proposals for Towing Franchise. LMC \$10.56.020

BACKGROUND INFORMATION: The existing franchise will expire on August 21, 1994 and should be renewed.

The franchise provides for the removal, disposal and dismantling of abandoned, wrecked and inoperative vehicles upon public and private property, not including highways, within the City pursuant to LMC \$10.56.020.

FUNDING: Not applicable.

Respectfully submitted,

  
Bob McNatt  
City Attorney

BM:pn

CCTOWING/TXTA.01V

APPROVED \_\_\_\_\_

THOMAS A. PETERSON  
City Manager



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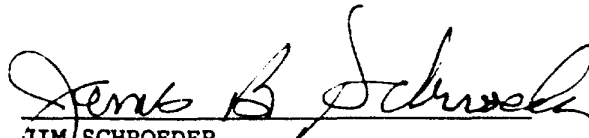
**CITY OF LODI**  
**REQUEST FOR PROPOSALS**

NOTICE IS HEREBY GIVEN that the Community Development Director of the City of Lodi, State of California, will receive sealed bids at the Community Development Department, City Hall, 221 West Pine Street, Lodi, California 95240 or P. O. Box 3006, Lodi, California 95241-1910 not later than 11:00 a.m. on September 5, 1994, at which time they will be publicly opened and provided to the Community Development Department for evaluation, for the purpose of the provision of the following services:

Removal, Disposal and Dismantling pursuant to Lodi  
Municipal Code §10.56.020 of all abandoned, wrecked,  
dismantled or inoperative vehicles located upon  
private or public property not including highways in  
the incorporated area of the City of Lodi.

The City of Lodi reserves the right to accept such proposals as may be deemed most advantageous to the City, the right to waive any informality in the proposal, and the further right to reject any and all proposals.

Additional information may be obtained by contacting Kirk Evans at (209) 334-5634.

  
JIM SCHROEDER  
Community Development Director  
City of Lodi

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## GENERAL PROPOSAL TERM & CONDITIONS

### 1. REQUIREMENT TO MEET ALL PROPOSAL PROVISIONS.

Each proposal shall meet all of the specifications and proposal terms and conditions. By virtue of the proposal submission and acceptance of the proposal award, the proposer acknowledges agreement with and acceptance of all provisions of the specifications, except as expressly qualified in the proposal. Non-substantial deviations may be considered, provided that the proposer submits a full description and explanation of, and justifications for, the proposed deviations. Final determination of any proposal deviation will be made by the City of Lodi.

### 2. PROPOSAL RETENTION AND AWARD.

The City reserves the right to retain all proposals for a period of sixty (60) days for examination and comparison. The City also reserves the right to waive non-substantial irregularities in any proposal, to reject any and all proposals, to reject or delete one part of a proposal and accept the other, except to the extent that the proposals are qualified by specific limitations, and to make award as the interests of the City may require based on the criteria identified in the SPECIAL TERMS & CONDITIONS.

### 3. PROPOSAL WITHDRAWAL.

Proposer may withdraw his/her proposal, without prejudice prior to the time specified for the opening, by submitting a written request to the Community Development Director for its withdrawal, in which event the proposal will be returned to the proposer unopened. No proposal received after the time specified or in any place other than the place stated in the "Request for Proposals" will be considered. All proposals will be opened and declared publicly. Proposers or their representatives are invited to be present at the opening of the proposals.

### 4. SUBMISSION OF ONE PROPOSAL ONLY.

No individual or business entity of any kind shall be allowed to make or file, or to be interested in, more than one proposal, except an alternative proposal when specifically requested; however, an individual or business entity which has submitted a sub-proposal to a proposer submitting a proposal, or who has quoted prices on materials to such proposer, is not thereby disqualified from submitting a said proposal or from quoting prices to other proposers submitting proposals.

5. CONTRACT REQUIREMENTS.

The proposer to whom the award is made shall execute a written contract with the City within ten (10) calendar days after notice of the award has been sent by mail to it at the address given in its proposal. The contract shall be made in the form adopted by the City and incorporated in the specifications. The proposer warrants that he/she possesses, or has arranged through subcontracts, all capital and other equipment, labor and materials to carry out and complete the work hereunder in compliance with all Federal, State, County, City and Special District laws, ordinances, and regulations which are applicable.

6. FAILURE TO ACCEPT CONTRACT.

If the proposer to whom the award is made fails to enter into the contract: the award will be annulled; any proposal security will be forfeited in accordance with the special proposal terms and be made to the next lowest responsible proposer who shall fulfill every stipulation as if it were the party to whom the first award was made.

7. CONTRACT ASSIGNMENT.

The proposer shall not assign, transfer, convey or otherwise dispose of the contract, or its right, title or interest, or its power to execute such a contract to any individual or business entity of any kind without the previous written consent of the City of Lodi.

8. NONDISCRIMINATION.

In the performance of the terms of this contract, the proposer agrees that it will not engage in, nor permit such subcontractors as it may employ, to engage in discrimination in employment of persons because of age, race, color, sex, national origin or ancestry, or religion of such person.

9. WORK DELAYS.

Should the successful proposer be obstructed or delayed in the work required to be done hereunder by changes in the work or by any default, act, or omission of the City, or by strikes, fire, earthquake, or any other act of God, or by the inability to obtain materials, equipment, or labor due to Federal government restrictions arising out of defense or war programs, then the time of completion may, at the City's sole option, be extended for such periods as may be agreed upon by the City and the successful proposer. In the event that there is insufficient time to grant such extension prior to the completion date of the contract, the City may, at the time of acceptance of the work, waive liquidated damages which may have accrued for failure to complete on time, due to any of the above, after hearing evidence as to the reasons for such, and making a finding as to the causes of same.

10. LABOR ACTIONS.

In the event that the successful proposer is experiencing a labor action at the time of the award of the proposal (or if its suppliers or subcontractors are experiencing a labor action), the City reserves the right to declare that said proposer is no longer a responsible proposer, and to select another proposer that is not experiencing a labor action.

11. COMMUNICATIONS REGARDING PROPOSAL PERIOD.

All timely requests for information submitted in writing will receive a written response from the City. Telephone communications with City staff are not encouraged, but will be permitted. However, such verbal communication shall not be binding on the City.

## **SPECIAL TERMS & CONDITIONS**

### **1. CONTRACT TERM.**

The agreement shall remain in effect for a period of three (3) years.

### **2. QUALIFICATION OF CONTRACTOR.**

Contractor shall be a duly licensed automobile dismantler. Contractor must have sufficient equipment and personnel to remove at least ten (10) vehicles or parts thereof per week. Contractor shall maintain a clean, fenced tow yard and shall not place removed vehicles on any public street, or otherwise place removed vehicles outside of the fenced portion of the tow yard.

### **3. EXCLUSIVE RIGHT.**

Contractor shall have the exclusive right to remove all vehicles ordered removed pursuant to Lodi Municipal Code §10.56.020.

### **4. CHARGES.**

Contractor shall remove all vehicles ordered removed without charge to the City or the owners thereof, and vehicles shall only be dismantled or scrapped and shall not thereafter be reconstructed or made operable, but contractor may sell or dispose of such dismantled automobiles for his/her own benefit.

### **5. TIME OF REMOVAL.**

Contractor will remove vehicles promptly and in any event not later than fifteen (15) days after ordered to do so.

### **6. RECORDS.**

Contractor will retain complete records of vehicles removed and disposed of.

### **7. INDEMNITY AND INSURANCE.**

Contractor will assume all risks incident to, or in connection with, this agreement and shall be solely responsible for all accidents or injuries to persons or property caused by its operation. Contractor shall maintain in full force and effect a policy of public liability insurance in which contractor shall be named as insured and the City of Lodi as an additional named insured. The minimum limits of such insurance policy shall be \$1,000,000 per occurrence.

8. CONFLICT OF INTEREST.

The contractor certifies that no one who has or will have any financial interest under this agreement is an officer or employee of the City. It is expressly agreed that, in performing these services, the contractor shall at all times be deemed an independent contractor and not an agent or employee of the City.

RFPTOW/TXTA.01V



( APPENDIX )

FRANCHISE AGREEMENT

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THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by and between the City of Lodi, a municipal corporation of the State of California hereinafter called CITY, and \_\_\_\_\_, hereinafter called CONTRACTOR.

W I T N E S S E T H:

WHEREAS, the City of Lodi adopted Ordinance No. 1402 on November 4, 1987, now Lodi Municipal Code Chapter 10.56, providing for the removal and dismantling of abandoned, wrecked, dismantled, or inoperative vehicles on private property within the incorporated limits of the City of Lodi; and

WHEREAS, Contractor is a duly licensed automobile dismantler with sufficient equipment to fulfill the requirements of removal of abandoned vehicles and the dismantling thereof and is desirous of providing such service to City;

NOW, THEREFORE, City and Contractor mutually agree as follows:

1. SCOPE OF AGREEMENT - This Agreement shall cover the removal, disposal and dismantling pursuant to City of Lodi Ordinance No. 1402 of all abandoned, wrecked, dismantled or inoperative vehicles located upon private or public property not including highways in the incorporated area of the City of Lodi.

2. ORDERS FOR REMOVAL - Contractor shall only remove vehicles when an order for removal has been given by the Community Development Director of the City.

3. TERM - This Agreement shall be in effect for a period of three (3) years from and after the date hereof.

4. EXCLUSIVE RIGHTS - Contractor shall have the exclusive right to remove all vehicles ordered removed pursuant to the provisions of said Ordinance No. 1402 and City agrees not to contract with any other automobile dismantler during the period of this Agreement for said services.

5. CHARGES - Contractor agrees to remove all vehicles ordered removed without charge to the City or the owners thereof, and vehicles shall only be dismantled or scrapped and shall not thereafter be reconstructed or made operable, but Contractor may sell or dispose of such dismantled automobiles for his own benefit.

6. SERVICES PROVIDED BY CONTRACTOR - Contractor agrees to provide, maintain and operate equipment sufficient to fulfill the requirements of this Agreement and be capable of removing at least ten (10) vehicles or parts thereof each week. Vehicles removed at the request of private individuals shall not be included as any part of the required performance. Contractor agrees to operate his business from 8:00 a.m. to 6:00 p.m., Monday through Friday inclusive, excluding legal holidays. Employees of Contractor shall wear a clean and neat

uniform with the identification of Contractor plainly imprinted on the uniform. Employees shall be courteous with good manners and no profane language shall be used. All equipment of Contractor shall be neatly painted and maintained in a business-like manner with the identification of Contractor professionally painted thereon.

7. COMPLIANCE WITH THE LAWS - Contractor agrees to comply with all provisions of law including, but not limited to, the operation of his vehicles and dismantling yard.

8. TIME AND METHOD OF REMOVAL - Contractor agrees to remove vehicles promptly and in any event not later than fifteen (15) days after the order for removal is given. When removing the vehicles or parts thereof, the property on which it was located shall be left free from glass or other vehicular debris.

Contractor is not required to obtain permission of the owner of property upon which a vehicle has been ordered removed before entering thereon, but Contractor shall not:

1. enter any areas secured by fences or walls without consent or warrant;
2. forcibly enter any area;
3. remain or continue operations if objection from any person is encountered.

Contractor shall immediately report any such incident to the Community Development Director for further direction.

9. INDEPENDENT CONTRACTOR - It is understood and agreed that Contractor, in performing this Agreement, is an independent contractor and is not performing services herein required as an agent or employee of City.

10. RECORDS - Contractor agrees to maintain complete records of vehicles removed and the disposal made thereof. In addition, Contractor agrees to notify City in writing within ten (10) days after any vehicle is removed.

11. PRIVATE REMOVALS - Any provision of the Agreement to the contrary notwithstanding, Contractor may solicit automobile removal, salvage, and dismantling business from individuals provided that in so doing, Contractor shall not directly or indirectly suggest, state, or imply that a City ordinance requires such removal. Any vehicles so removed, salvaged or dismantled shall not be construed to be removed, salvaged or dismantled pursuant to the terms of said Ordinance No. 1402 or under the aforesaid provisions of this Agreement. It is also understood and agreed Contractor shall not charge individuals for the removal of any vehicle or parts thereof provided that proper documentation of title is furnished Contractor pursuant to the Vehicle Code of the State of California. Said documentation shall be furnished Contractor prior to removal of said vehicle or part thereof. Contractor shall furnish written record to City by the fifth (5th)

day of each month of all vehicles or parts thereof removed by the Contractor during the previous calendar month pursuant to this article.

12. INDEMNITY AND INSURANCE - Contractor assumes all risks incident to, or in connection with, this Agreement for the full period thereof and shall be solely responsible for all accidents or injuries to persons or property caused by its operations. Contractor agrees to maintain in full force during the term hereof a policy of public liability insurance under which Contractor is named as insured, and containing an Additional Named Insured Endorsement naming City as an additional insured. Contractor agrees to indemnify and hold harmless the City, its officers, agents, employees and volunteers from, and against all costs, expenses, and liability arising out of, or based upon, any and all property damage, or damages for personal injuries, including death, sustained in accidents occurring in or about the demised premises; where such accident, damage, or injury, including death, results or is claimed to have resulted, from any act or omission on the part of Contractor or Contractor's agents or employees. The minimum limits of such insurance shall be \$1,000,000 each occurrence. In addition to the Additional Named Insured Endorsement on Contractor's policy of insurance, said insurance policy shall be endorsed to include the following language:

"Such insurance as is afforded by the endorsement for the Additional Insureds shall apply as primary insurance. Any other insurance maintained by the City of Lodi or its officers and

employees shall be excess only and not contributing with the coinsurance afforded by this endorsement."

A duplicate or certificate of said public liability and property damage insurance containing the above-stated required endorsements and which meets all specifications as enumerated in the Risk Transfer Requirements for Lease or Use of City of Lodi Facilities, shall be delivered to City within ten (10) days after the issuance and each renewal of said policy. This paragraph and all other provisions of this Agreement shall apply and be construed as applying to any subcontractor of Contractor.

13. TERMINATION FOR DEFAULT - If either party hereto defaults or fails to perform any of the terms herein provided, then this Agreement shall terminate upon failure of the defaulting party to correct said default within fifteen (15) days after receiving written notice thereof from the other party hereto, but said termination shall not be exclusive of other remedies provided by law for such default. Time shall be of essence of this Agreement and every provision hereof shall be construed to be material and substantial.

14. TERM AND CANCELLATION - This Agreement shall be and remain in effect for a period of three (3) years from and after the date hereof, provided, however, that this Agreement may be unilaterally cancelled by City or Contractor upon ninety (90) days written notice given to the other party.

15. CODE COMPLIANCE - Contractor has read Lodi Municipal Code Chapter 10.56, is familiar with its contents and agrees to conduct its operations at all times in conformance therewith.

IN WITNESS WHEREOF, the parties have set their hands as of the date first hereinabove written.

CITY

CITY OF LODI, a municipal corporation

CONTRACTOR

By \_\_\_\_\_  
THOMAS A. PETERSON  
City Manager

By \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
JENNIFER M. PERRIN  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
BOB McNATT  
City Attorney

AGRTOW/TXTA.01V